

**BEFORE THE  
PHYSICIAN ASSISTANT BOARD  
DEPARTMENT OF CONSUMER AFFAIRS  
STATE OF CALIFORNIA**

In the Matter of the Accusation against:	)	
	)	
	)	
<b>CRAIG FRANCIS KULYN, P.A.</b>	)	<b>Case No. 950-2020-002670</b>
	)	
Physician Assistant License No. PA 16001	)	
	)	
_____ Respondent.	)	

**ORDER CORRECTING NUNC PRO TUNC  
CLERICAL ERRORS IN "EFFECTIVE DATE" AND "ORDERED DATE" OF  
DECISION**

On its own motion, the Physician Assistant Board (hereafter "Board") finds that there are clerical errors in the "effective date" and "ordered date" portions of the Default Decision and Order in the above-entitled matter and that such clerical errors should be corrected.

IT IS HEREBY ORDERED that the effective date and the ordered date contained on page 5 of the Default Decision and Order in the above-entitled matter be and hereby is amended and corrected nunc pro tunc as of the date of entry of the order to read:

- "This Decision shall become effective at 5:00 p.m. on December 30, 2022."
- "It is so ORDERED December 1, 2022."

IT IS SO ORDERED **December 9, 2022.**

**PHYSICIAN ASSISTANT BOARD**

By:  \_\_\_\_\_  
Juan Armenta, President

1 ROB BONTA  
Attorney General of California  
2 STEVE DIEHL  
Supervising Deputy Attorney General  
3 JOHN S. GATSCHET  
Deputy Attorney General  
4 State Bar No. 244388  
California Department of Justice  
5 1300 I Street, Suite 125  
P.O. Box 944255  
6 Sacramento, CA 94244-2550  
Telephone: (916) 210-7546  
7 Facsimile: (916) 327-2247

8 *Attorneys for Complainant*

9  
10 **BEFORE THE**  
11 **PHYSICIAN ASSISTANT BOARD**  
12 **DEPARTMENT OF CONSUMER AFFAIRS**  
13 **STATE OF CALIFORNIA**

14 In the Matter of the Accusation Against,

Case No. 950-2020-002670

15 **CRAIG FRANCIS KULYN, P.A.**  
16 **751 Hilltop Dr #17**  
**Redding, CA 96003**

**DEFAULT DECISION  
AND ORDER**

17 **Physician Assistant License**  
18 **No. PA 16001,**

[Gov. Code, §11520]

19 Respondent.

20  
21 **FINDINGS OF FACT**

22 1. On or about September 7, 2022, Complainant Rozana Khan, in her official capacity as  
23 the Executive Officer of the Physician Assistant Board, Department of Consumer Affairs  
24 (“Board”), filed Accusation No. 950-2020-002670 against Craig Francis Kulyn, P.A.  
25 (“Respondent”) before the Board.

26 2. On or about November 14, 2001, the Board issued Physician Assistant License No.  
27 PA 16001 to Respondent. That license expired on January 31, 2021, and has not been renewed.  
28 The Respondent’s license is delinquent.

1           3.     On or about September 7, 2022, Christina Haydon, an employee of the Complainant  
2 Agency, served by Certified Mail a copy of the Accusation No. 950-2020-002670, Statement to  
3 Respondent, Notice of Defense, Request for Discovery, and Government Code sections 11507.5,  
4 11507.6, and 11507.7 to Respondent's address of record with the Board, which was and is:

5           751 Hilltop Dr #17  
6           Redding, CA 96003.

7           A true and correct copy of the Accusation, the related documents, and Declaration of  
8 Service are attached as **Exhibit A**, and are incorporated herein by reference.

9           4.     Service of the Accusation was effective as a matter of law under the provisions of  
10 Government Code section 11505, subdivision (c).

11           On or about September 19, 2022, the aforementioned documents were returned by the U.S.  
12 Postal Service marked "unable to forward." A true and correct copy of the envelope returned by  
13 the post office is attached as **Exhibit B**, and is incorporated herein by reference.

14           5.     Between September 7, 2022, through November 7, 2022, the Respondent has not filed  
15 a Notice of Defense, nor had contact, with Deputy Attorney General John S. Gatschet, the  
16 Board's legal counsel of record in the above-entitled matter. A true and correct copy of  
17 Declaration of DAG John S. Gatschet is attached as **Exhibit C**, and is incorporated herein by  
18 reference.

19           6.     Business and Professions Code section 118 states, in pertinent part:

20                 (b) The suspension, expiration, or forfeiture by operation of law of a license  
21 issued by a board in the department, or its suspension, forfeiture, or cancellation by  
22 order of the board or by order of a court of law, or its surrender without the written  
23 consent of the board, shall not, during any period in which it may be renewed,  
24 restored, reissued, or reinstated, deprive the board of its authority to institute or  
continue a disciplinary proceeding against the licensee upon any ground provided by  
law or to enter an order suspending or revoking the license or otherwise taking  
disciplinary action against the license on any such ground.

25           7.     Business and Professions Code section 3524 states, in pertinent part:

26                 A license or approval that has expired may be renewed at any time within five years  
27 after its expiration by filing an application for renewal on a form prescribed by the board  
28 and payment of all accrued and unpaid renewal fees. If the license or approval is not  
renewed within 30 days after its expiration, the licensed physician assistant and approved

1 supervising physician, as a condition precedent to renewal, shall also pay the prescribed  
2 delinquency fee, if any. Renewal under this section shall be effective on the date on which  
3 the application is filed, on the date on which all renewal fees are paid, or on the date on  
4 which the delinquency fee, if any, is paid, whichever occurs last. If so renewed, the license  
shall continue in effect through the expiration date provided in Section 3522 or 3523, which  
next occurs after the effective date of the renewal, when it shall expire, if it is not again  
renewed.

5 8. Government Code section 11506 states, in pertinent part:

6 (c) The respondent shall be entitled to a hearing on the merits if the respondent  
7 files a notice of defense, and the notice shall be deemed a specific denial of all parts  
8 of the accusation not expressly admitted. Failure to file a notice of defense shall  
constitute a waiver of respondent's right to a hearing, but the agency in its discretion  
may nevertheless grant a hearing.

9 Respondent failed to file a Notice of Defense within 15 days after service upon him of the  
10 Accusation, and therefore waived his right to a hearing on the merits of Accusation No. 950-  
11 2020-002670.

12 9. Government Code section 11520 states, in pertinent part:

13 (a) If the respondent either fails to file a notice of defense or to appear at the  
14 hearing, the agency may take action based upon the respondent's express admissions  
15 or upon other evidence and affidavits may be used as evidence without any notice to  
respondent.

16 10. The Board has reviewed the Declarations of Supervising Investigator Jennifer  
17 Alvarado and Dr. John J. Erickson, M.D. The Declaration of Supervising Investigator Alvarado  
18 conclusively established that the Respondent admitted pre-signing blank prescriptions and then  
19 made those prescriptions available to a nurse. The Declaration of Dr. Erickson conclusively  
20 establishes that Respondent's actions evidenced an extreme departure from the standard of care  
21 and that Respondent engaged in unprofessional conduct. A true and correct copy of the  
22 Declarations will be kept confidentially by the Board as **Exhibit D**, and are incorporated herein  
23 by reference.

24 11. Business and Professions Code 125.3 provides for cost recovery in any order issued  
25 in resolution of a disciplinary proceeding before the Board. A certified copy of the actual costs  
26 signed by the entity bringing the proceeding shall be prima facie evidence of the reasonable costs  
27 of investigation and prosecution of the case. In this matter, the Board has received and reviewed  
28 a Declaration from the Attorney General's Office, a Declaration from the Health Quality

Investigation Unit, and a copy of Dr. Erickson's costs. The total costs are \$15,539.25. A true and correct copy of the Declarations will be kept confidentially by the Board as **Exhibit E**, and are incorporated herein by reference.

12. Pursuant to its authority under Government Code section 11520, the Board finds Respondent is in default. The Board will take action without further hearing and, based on Respondent's express admissions by way of default and the evidence before it, contained in Exhibits A, B, C, D, and E, finds that the allegations in Accusation No. 950-2020-002670 are true.

### **DETERMINATION OF ISSUES**

1. Based on the foregoing findings of fact, Respondent Craig Francis Kulyn, P.A. has subjected his Physician Assistant License No. PA 16001 to discipline.

2. A copy of the Accusation and the related documents and Declaration of Service are attached.

3. The agency has jurisdiction to adjudicate this case by default.

4. The Physician Assistant Board is authorized to revoke Respondent's Physician Assistant License based upon the following violations alleged in the Accusation:

a. Gross Negligence in violation of Business and Profession Code sections 2234, 2242, and 3527, by signing multiple blank prescriptions for controlled substances and then losing complete control over the prescriptions by providing them to a nurse;

b. Violation of Drug Statutes in violation of Business and Professions Code sections 2234, 2238, 3527, and Health and Safety Code 11164, by issuing prescriptions without including the patient's name, medication, strength, and refill information.

### **ORDER**

**IT IS SO ORDERED** that Physician Assistant License No. PA 16001, heretofore issued to Respondent Craig Francis Kulyn, P.A., is revoked. The Board further orders that Respondent shall pay \$15,539.25 in cost recovery for the reasonable costs of investigation and prosecution upon the filing of a Petition for Reinstatement or application for new licensure with the Board.

**Pursuant to Government Code section 11520, subdivision (c), Respondent may serve a written motion requesting that the Decision be vacated and stating the grounds relied on within seven (7) days after service of the Decision on Respondent.** The agency in its discretion may vacate the Decision and grant a hearing on a showing of good cause, as defined in the statute.

This Decision shall become effective at 5:00 p.m. on December 1, 2022.

It is so ORDERED December 30, 2022

Rozana Khan

FOR THE PHYSICIAN ASSISTANT  
BOARD  
DEPARTMENT OF CONSUMER AFFAIRS  
STATE OF CALIFORNIA

SA2022801765  
36623997.docx

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

Exhibit A

Accusation No. 950-2020-002670,  
Related Documents and Declaration of Service

1 ROB BONTA  
Attorney General of California  
2 STEVEN D. MUNI  
Supervising Deputy Attorney General  
3 JOHN S. GATSCHET  
Deputy Attorney General  
4 State Bar No. 244388  
California Department of Justice  
5 1300 I Street, Suite 125  
P.O. Box 944255  
6 Sacramento, CA 94244-2550  
Telephone: (916) 210-7546  
7 Facsimile: (916) 327-2247

8 *Attorneys for Complainant*

9  
10 **BEFORE THE**  
11 **PHYSICIAN ASSISTANT BOARD**  
12 **DEPARTMENT OF CONSUMER AFFAIRS**  
13 **STATE OF CALIFORNIA**

14 In the Matter of the Accusation Against:

Case No. 950-2020-002670

15 **CRAIG FRANCIS KULYN, P.A.**  
16 **751 Hilltop Dr #17**  
**Redding, CA 96003**

**A C C U S A T I O N**

17 **Physician Assistant License**  
18 **No. PA 16001,**

Respondent.

19  
20  
21 **PARTIES**

22 1. Rozana Khan ("Complainant") brings this Accusation solely in her official capacity  
23 as the Executive Officer of the Physician Assistant Board ("Board"), Department of Consumer  
24 Affairs.

25 2. On or about November 14, 2001, the Physician Assistant Board issued Physician  
26 Assistant License Number PA 16001 to Craig Francis Kulyn, P.A. ("Respondent"). That license  
27 expired on January 31, 2021, and has not been renewed. Pursuant to Business and Professions  
28



Code section 3527, subdivision (e), the Board has continuing jurisdiction to bring disciplinary charges against Respondent's license despite Respondent's failure to renew his license.

### **JURISDICTION**

3. This Accusation is brought before the Board under the authority of the following laws. All section references are to the Business and Professions Code ("Code") unless otherwise indicated.

### **STATUTORY PROVISIONS**

4. Section 3501<sup>1</sup> of the Code states in pertinent part:

As used in this chapter:

...

(4) 'Physician assistant' means a person who meets the requirement of this chapter and is licensed by the board.

(5) 'Supervising physician' or 'supervising physician and surgeon' means a physician and surgeon licensed by the Medical Board of California or the Osteopathic Medical Board of California who supervises one or more physician assistants, who possesses a current valid license to practice medicine, and who is not currently on disciplinary probation for improper use of a physician assistant.

(6) 'Supervision' means that a licensed physician and surgeon oversees the activities of, and accepts responsibility for, the medical services rendered by a physician assistant.

...

5. Section 3502<sup>2</sup> of the Code states:

(a) Notwithstanding any other law, a physician assistant may perform those medical services as set forth by the regulations adopted under this chapter when the services are rendered under the supervision of a licensed physician and surgeon who is not subject to a disciplinary condition imposed by the Medical Board of California prohibiting that supervision or prohibiting the employment of a physician assistant. The medical record, for each episode of care for a patient, shall identify the physician and surgeon who is responsible for the supervision of the physician assistant.

(b)(1) Notwithstanding any other law, a physician assistant performing medical services under the supervision of a physician and surgeon may assist a doctor of podiatric

<sup>1</sup> Effective January 1, 2016, to December 31, 2019. Amended by Stats. 2019, c. 707 (S.B. 697), § 2, eff. Jan. 1, 2020.

<sup>2</sup> Effective January 1, 2016, to December 31, 2019. Amended by Stats. 2019, c. 707 (S.B. 697), § 3, eff. Jan. 1, 2020.

1 medicine who is a partner, shareholder, or employee in the same medical group as the  
2 supervising physician and surgeon. A physician assistant who assists a doctor of podiatric  
3 medicine pursuant to this subdivision shall do so only according to patient-specific orders  
4 from the supervising physician and surgeon.

5 (2) The supervising physician and surgeon shall be physically available to the  
6 physician assistant for consultation when that assistance is rendered. A physician assistant  
7 assisting a doctor of podiatric medicine shall be limited to performing those duties included  
8 within the scope of practice of a doctor of podiatric medicine.

9 (c)(1) A physician assistant and his or her supervising physician and surgeon shall  
10 establish written guidelines for the adequate supervision of the physician assistant. This  
11 requirement may be satisfied by the supervising physician and surgeon adopting protocols  
12 for some or all of the tasks performed by the physician assistant. The protocols adopted  
13 pursuant to this subdivision shall comply with the following requirements:

14 (A) A protocol governing diagnosis and management shall, at a minimum, include the  
15 presence or absence of symptoms, signs, and other data necessary to establish a diagnosis or  
16 assessment, any appropriate tests or studies to order, drugs to recommend to the patient, and  
17 education to be provided to the patient.

18 (B) A protocol governing procedures shall set forth the information to be provided to  
19 the patient, the nature of the consent to be obtained from the patient, the preparation and  
20 technique of the procedure, and the followup care.

21 (C) Protocols shall be developed by the supervising physician and surgeon or adopted  
22 from, or referenced to, texts or other sources.

23 (D) Protocols shall be signed and dated by the supervising physician and surgeon and  
24 the physician assistant.

25 (2)(A) The supervising physician and surgeon shall use one or more of the following  
26 mechanisms to ensure adequate supervision of the physician assistant functioning under the  
27 protocols:

28 (i) The supervising physician and surgeon shall review, countersign, and date a  
sample consisting of, at a minimum, 5 percent of the medical records of patients treated by  
the physician assistant functioning under the protocols within 30 days of the date of  
treatment by the physician assistant.

(ii) The supervising physician and surgeon and physician assistant shall conduct a  
medical records review meeting at least once a month during at least 10 months of the year.  
During any month in which a medical records review meeting occurs, the supervising  
physician and surgeon and physician assistant shall review an aggregate of at least 10  
medical records of patients treated by the physician assistant functioning under protocols.  
Documentation of medical records reviewed during the month shall be jointly signed and  
dated by the supervising physician and surgeon and the physician assistant.

(iii) The supervising physician and surgeon shall review a sample of at least 10 medical records per month, at least 10 months during the year, using a combination of the countersignature mechanism described in clause (i) and the medical records review meeting mechanism described in clause (ii). During each month for which a sample is reviewed, at least one of the medical records in the sample shall be reviewed using the mechanism described in clause (i) and at least one of the medical records in the sample shall be reviewed using the mechanism described in clause (ii).

(B) In complying with subparagraph (A), the supervising physician and surgeon shall select for review those cases that by diagnosis, problem, treatment, or procedure represent, in his or her judgment, the most significant risk to the patient.

(3) Notwithstanding any other law, the Medical Board of California or the board may establish other alternative mechanisms for the adequate supervision of the physician assistant.

(d) No medical services may be performed under this chapter in any of the following areas:

(1) The determination of the refractive states of the human eye, or the fitting or adaptation of lenses or frames for the aid thereof.

(2) The prescribing or directing the use of, or using, any optical device in connection with ocular exercises, visual training, or orthoptics.

(3) The prescribing of contact lenses for, or the fitting or adaptation of contact lenses to, the human eye.

(4) The practice of dentistry or dental hygiene or the work of a dental auxiliary as defined in Chapter 4 (commencing with Section 1600).

(e) This section shall not be construed in a manner that shall preclude the performance of routine visual screening as defined in Section 3501.

(f) Compliance by a physician assistant and supervising physician and surgeon with this section shall be deemed compliance with Section 1399.546 of Title 16 of the California Code of Regulations.

6. Section 3502.1<sup>3</sup> of the Code states:

(a) In addition to the services authorized in the regulations adopted by the Medical Board of California, and except as prohibited by Section 3502, while under the supervision of a licensed physician and surgeon or physicians and surgeons authorized by law to supervise a physician assistant, a physician assistant may administer or provide medication to a patient, or transmit orally, or in writing on a patient's record or in a drug order, an order

<sup>3</sup> Effective January 1, 2016, to December 31, 2018. Amended by Stats. 2018, c. 693 (S.B. 1109), § 10, eff. Jan 1, 2019; Stats. 2019, c. 707 (S.B. 697), § 4, eff. Jan 1, 2020.

1 to a person who may lawfully furnish the medication or medical device pursuant to  
2 subdivisions (c) and (d).

3 (1) A supervising physician and surgeon who delegates authority to issue a drug order  
4 to a physician assistant may limit this authority by specifying the manner in which the  
5 physician assistant may issue delegated prescriptions.

6 (2) Each supervising physician and surgeon who delegates the authority to issue a  
7 drug order to a physician assistant shall first prepare and adopt, or adopt, a written, practice  
8 specific, formulary and protocols that specify all criteria for the use of a particular drug or  
9 device, and any contraindications for the selection. Protocols for Schedule II controlled  
10 substances shall address the diagnosis of illness, injury, or condition for which the Schedule  
11 II controlled substance is being administered, provided, or issued. The drugs listed in the  
12 protocols shall constitute the formulary and shall include only drugs that are appropriate for  
13 use in the type of practice engaged in by the supervising physician and surgeon. When  
14 issuing a drug order, the physician assistant is acting on behalf of and as an agent for a  
15 supervising physician and surgeon.

16 (b) "Drug order," for purposes of this section, means an order for medication that is  
17 dispensed to or for a patient, issued and signed by a physician assistant acting as an  
18 individual practitioner within the meaning of Section 1306.02 of Title 21 of the Code of  
19 Federal Regulations. Notwithstanding any other provision of law, (1) a drug order issued  
20 pursuant to this section shall be treated in the same manner as a prescription or order of the  
21 supervising physician, (2) all references to "prescription" in this code and the Health and  
22 Safety Code shall include drug orders issued by physician assistants pursuant to authority  
23 granted by their supervising physicians and surgeons, and (3) the signature of a physician  
24 assistant on a drug order shall be deemed to be the signature of a prescriber for purposes of  
25 this code and the Health and Safety Code.

26 (c) A drug order for any patient cared for by the physician assistant that is issued by  
27 the physician assistant shall either be based on the protocols described in subdivision (a) or  
28 shall be approved by the supervising physician and surgeon before it is filled or carried out.

(1) A physician assistant shall not administer or provide a drug or issue a drug order  
for a drug other than for a drug listed in the formulary without advance approval from a  
supervising physician and surgeon for the particular patient. At the direction and under the  
supervision of a physician and surgeon, a physician assistant may hand to a patient of the  
supervising physician and surgeon a properly labeled prescription drug prepackaged by a  
physician and surgeon, manufacturer as defined in the Pharmacy Law, or a pharmacist.

(2) A physician assistant shall not administer, provide, or issue a drug order to a  
patient for Schedule II through Schedule V controlled substances without advance approval  
by a supervising physician and surgeon for that particular patient unless the physician  
assistant has completed an education course that covers controlled substances and that  
meets standards, including pharmacological content, approved by the board. The education  
course shall be provided either by an accredited continuing education provider or by an  
approved physician assistant training program. If the physician assistant will administer,  
provide, or issue a drug order for Schedule II controlled substances, the course shall contain

1 a minimum of three hours exclusively on Schedule II controlled substances. Completion of  
2 the requirements set forth in this paragraph shall be verified and documented in the manner  
3 established by the board prior to the physician assistant's use of a registration number issued  
4 by the United States Drug Enforcement Administration to the physician assistant to  
5 administer, provide, or issue a drug order to a patient for a controlled substance without  
6 advance approval by a supervising physician and surgeon for that particular patient.

7 (3) Any drug order issued by a physician assistant shall be subject to a reasonable  
8 quantitative limitation consistent with customary medical practice in the supervising  
9 physician and surgeon's practice.

10 (d) A written drug order issued pursuant to subdivision (a), except a written drug  
11 order in a patient's medical record in a health facility or medical practice, shall contain the  
12 printed name, address, and telephone number of the supervising physician and surgeon, the  
13 printed or stamped name and license number of the physician assistant, and the signature of  
14 the physician assistant. Further, a written drug order for a controlled substance, except a  
15 written drug order in a patient's medical record in a health facility or a medical practice,  
16 shall include the federal controlled substances registration number of the physician assistant  
17 and shall otherwise comply with Section 11162.1 of the Health and Safety Code. Except as  
18 otherwise required for written drug orders for controlled substances under Section 11162.1  
19 of the Health and Safety Code, the requirements of this subdivision may be met through  
20 stamping or otherwise imprinting on the supervising physician and surgeon's prescription  
21 blank to show the name, license number, and if applicable, the federal controlled substances  
22 registration number of the physician assistant, and shall be signed by the physician  
23 assistant. When using a drug order, the physician assistant is acting on behalf of and as the  
24 agent of a supervising physician and surgeon.

25 (e) The supervising physician and surgeon shall use either of the following  
26 mechanisms to ensure adequate supervision of the administration, provision, or issuance by  
27 a physician assistant of a drug order to a patient for Schedule II controlled substances:

28 (1) The medical record of any patient cared for by a physician assistant for whom the  
physician assistant's Schedule II drug order has been issued or carried out shall be  
reviewed, countersigned, and dated by a supervising physician and surgeon within seven  
days.

(2) If the physician assistant has documentation evidencing the successful completion  
of an education course that covers controlled substances, and that controlled substance  
education course (A) meets the standards, including pharmacological content, established in  
Sections 1399.610 and 1399.612 of Title 16 of the California Code of Regulations, and (B)  
is provided either by an accredited continuing education provider or by an approved  
physician assistant training program, the supervising physician and surgeon shall review,  
countersign, and date, within seven days, a sample consisting of the medical records of at  
least 20 percent of the patients cared for by the physician assistant for whom the physician  
assistant's Schedule II drug order has been issued or carried out. Completion of the  
requirements set forth in this paragraph shall be verified and documented in the manner  
established in Section 1399.612 of Title 16 of the California Code of Regulations.  
Physician assistants who have a certificate of completion of the course described in



1 paragraph (2) of subdivision (c) shall be deemed to have met the education course  
2 requirement of this subdivision.

3 (f) All physician assistants who are authorized by their supervising physicians to issue  
4 drug orders for controlled substances shall register with the United States Drug  
5 Enforcement Administration (DEA).

6 (g) The board shall consult with the Medical Board of California and report during its  
7 sunset review required by Article 7.5 (commencing with Section 9147.7) of Chapter 1.5 of  
8 Part 1 of Division 2 of Title 2 of the Government Code the impacts of exempting Schedule  
9 III and Schedule IV drug orders from the requirement for a physician and surgeon to review  
10 and countersign the affected medical record of a patient.

11 7. Section 3504.1 of the Code states:

12 Protection of the public shall be the highest priority for the Physician Assistant Board  
13 in exercising its licensing, regulatory, and disciplinary functions. Whenever the protection  
14 of the public is inconsistent with other interests sought to be promoted, the protection of the  
15 public shall be paramount.

16 8. Section 3527 of the Code states:

17 (a) The board may order the denial of an application for, or the issuance subject  
18 to terms and conditions of, or the suspension or revocation of, or the imposition of  
19 probationary conditions upon a PA license after a hearing as required in Section 3528  
20 for unprofessional conduct that includes, but is not limited to, a violation of this  
21 chapter, a violation of the Medical Practice Act, or a violation of the regulations  
22 adopted by the board.

23 (b) The board may order the denial of an application for, or the suspension or  
24 revocation of, or the imposition of probationary conditions upon, an approved  
25 program after a hearing as required in Section 3528 for a violation of this chapter or  
26 the regulations adopted pursuant thereto.

27 (c) The board may order the denial of the application for, or the suspension or  
28 revocation of, or the imposition of probationary conditions upon, a PA license, after a  
hearing as required in Section 3528 for unprofessional conduct that includes, except  
for good cause, the knowing failure of a licensee to protect patients by failing to  
follow infection control guidelines of the board, thereby risking transmission of  
bloodborne infectious diseases from licensee to patient, from patient to patient, and  
from patient to licensee. In administering this subdivision, the board shall consider  
referencing the standards, regulations, and guidelines of the State Department of  
Health developed pursuant to Section 1250.11 of the Health and Safety Code and the  
standards, regulations, and guidelines pursuant to the California Occupational Safety  
and Health Act of 1973 (Part 1 (commencing with Section 6300) of Division 5 of the  
Labor Code) for preventing the transmission of HIV, hepatitis B, and other  
bloodborne pathogens in health care settings. As necessary, the board shall consult  
with the Medical Board of California, the Osteopathic Medical Board of California,  
the Podiatric Medical Board of California, the Dental Board of California, the Board  
of Registered Nursing, and the Board of Vocational Nursing and Psychiatric

1 Technicians of the State of California to encourage appropriate consistency in the  
2 implementation of this subdivision.

3 The board shall seek to ensure that licensees are informed of the responsibility  
4 of licensees and others to follow infection control guidelines, and of the most recent  
5 scientifically recognized safeguards for minimizing the risk of transmission of  
6 bloodborne infectious diseases.

7 (d) The board may order the licensee to pay the costs of monitoring the  
8 probationary conditions imposed on the licensee.

9 (e) The expiration, cancellation, forfeiture, or suspension of a PA license by  
10 operation of law or by order or decision of the board or a court of law, the placement  
11 of a license on a retired status, or the voluntary surrender of a license by a licensee  
12 shall not deprive the board of jurisdiction to commence or proceed with any  
13 investigation of, or action or disciplinary proceeding against, the licensee or to render  
14 a decision suspending or revoking the license.

15 9. Section 2234 of the Code, states, in pertinent part:

16 The board shall take action against any licensee who is charged with  
17 unprofessional conduct. In addition to other provisions of this article, unprofessional  
18 conduct includes, but is not limited to, the following:

19 (a) Violating or attempting to violate, directly or indirectly, assisting in or  
20 abetting the violation of, or conspiring to violate any provision of this chapter.

21 (b) Gross negligence.

22 (c) Repeated negligent acts. To be repeated, there must be two or more  
23 negligent acts or omissions. An initial negligent act or omission followed by a  
24 separate and distinct departure from the applicable standard of care shall constitute  
25 repeated negligent acts.

26 (1) An initial negligent diagnosis followed by an act or omission medically  
27 appropriate for that negligent diagnosis of the patient shall constitute a single  
28 negligent act.

(2) When the standard of care requires a change in the diagnosis, act, or  
omission that constitutes the negligent act described in paragraph (1), including, but  
not limited to, a reevaluation of the diagnosis or a change in treatment, and the  
licensee's conduct departs from the applicable standard of care, each departure  
constitutes a separate and distinct breach of the standard of care.

...

10. Section 2238 of the Code states:

A violation of any federal statute or federal regulation or any of the statutes or  
regulations of this state regulating dangerous drugs or controlled substances  
constitutes unprofessional conduct.

///

///

11. Section 2242 of the Code states:

(a) Prescribing, dispensing, or furnishing dangerous drugs as defined in Section 4022 without an appropriate prior examination and a medical indication, constitutes unprofessional conduct. An appropriate prior examination does not require a synchronous interaction between the patient and the licensee and can be achieved through the use of telehealth, including, but not limited to, a self-screening tool or a questionnaire, provided that the licensee complies with the appropriate standard of care.

(b) No licensee shall be found to have committed unprofessional conduct within the meaning of this section if, at the time the drugs were prescribed, dispensed, or furnished, any of the following applies:

(1) The licensee was a designated physician and surgeon or podiatrist serving in the absence of the patient's physician and surgeon or podiatrist, as the case may be, and if the drugs were prescribed, dispensed, or furnished only as necessary to maintain the patient until the return of the patient's practitioner, but in any case no longer than 72 hours.

(2) The licensee transmitted the order for the drugs to a registered nurse or to a licensed vocational nurse in an inpatient facility, and if both of the following conditions exist:

(A) The practitioner had consulted with the registered nurse or licensed vocational nurse who had reviewed the patient's records.

(B) The practitioner was designated as the practitioner to serve in the absence of the patient's physician and surgeon or podiatrist, as the case may be.

(3) The licensee was a designated practitioner serving in the absence of the patient's physician and surgeon or podiatrist, as the case may be, and was in possession of or had utilized the patient's records and ordered the renewal of a medically indicated prescription for an amount not exceeding the original prescription in strength or amount or for more than one refill.

(4) The licensee was acting in accordance with Section 120582 of the Health and Safety Code.

12. Section 4021 of the Code states:

'Controlled substances' means any substance listed in Chapter 2 (commencing with Section 11053) of Division 10 of the Health and Safety Code.

13. Section 4022 of the Code states:

'Dangerous drug' or 'dangerous drug' means any drug or device unsafe for self-use in humans or animals, and includes the following:

(a) Any drug that bears the legend: 'Caution: federal law prohibits dispensing without prescriptions,' 'Rx only,' or words of similar import.

...



14. Section 11164<sup>4</sup> of the Health and Safety Code states:

Except as provided in Section 11167, no person shall prescribe a controlled substance, nor shall any person fill, compound, or dispense a prescription for a controlled substance, unless it complies with the requirements of this section.

(a) Each prescription for a controlled substance classified in Schedule II, III, IV, or V, except as authorized by subdivision (b), shall be made on a controlled substance prescription form as specified in Section 11162.1 and shall meet the following requirements:

(1) The prescription shall be signed and dated by the prescriber in ink and shall contain the prescriber's address and telephone number; the name of the ultimate user or research subject, or contact information as determined by the Secretary of the United States Department of Health and Human Services; refill information, such as the number of refills ordered and whether the prescription is a first-time request or a refill; and the name, quantity, strength, and directions for use of the controlled substance prescribed.

(2) The prescription shall also contain the address of the person for whom the controlled substance is prescribed. If the prescriber does not specify this address on the prescription, the pharmacist filling the prescription or an employee acting under the direction of the pharmacist shall write or type the address on the prescription or maintain this information in a readily retrievable form in the pharmacy.

(b)(1) Notwithstanding paragraph (1) of subdivision (a) of Section 11162.1, any controlled substance classified in Schedule III, IV, or V may be dispensed upon an oral or electronically transmitted prescription, which shall be produced in hard copy form and signed and dated by the pharmacist filling the prescription or by any other person expressly authorized by provisions of the Business and Professions Code. Any person who transmits, maintains, or receives any electronically transmitted prescription shall ensure the security, integrity, authority, and confidentiality of the prescription.

(2) The date of issue of the prescription and all the information required for a written prescription by subdivision (a) shall be included in the written record of the prescription; the pharmacist need not include the address, telephone number, license classification, or federal registry number of the prescriber or the address of the patient on the hard copy, if that information is readily retrievable in the pharmacy.

(3) Pursuant to an authorization of the prescriber, any agent of the prescriber on behalf of the prescriber may orally or electronically transmit a prescription for a controlled substance classified in Schedule III, IV, or V, if in these cases the written record of the prescription required by this subdivision specifies the name of the agent of the prescriber transmitting the prescription.

---

<sup>4</sup> Version of Statute Effective from January 1, 2007, to March 10, 2019. Amended by Stats. 2019, c. 4 (A.B. 149), § 3, eff. March 11, 2019.

1 (c) The use of commonly used abbreviations shall not invalidate an otherwise valid  
2 prescription.

3 (d) Notwithstanding any provision of subdivisions (a) and (b), prescriptions for a  
4 controlled substance classified in Schedule V may be for more than one person in the same  
5 family with the same medical need.

6 (e) This section shall become operative on January 1, 2005.

### 7 REGULATORY PROVISIONS

8 15. California Code of Regulations, title 16, section 1399.545, states:

9 (a) A supervising physician shall be available in person or by electronic  
10 communication at all times when the physician assistant is caring for patients.

11 (b) A supervising physician shall delegate to a physician assistant only those  
12 tasks and procedures consistent with the supervising physician's specialty or usual  
13 and customary practice and with the patient's health and condition.

14 (c) A supervising physician shall observe or review evidence of the physician  
15 assistant's performance of all tasks and procedures to be delegated to the physician  
16 assistant until assured of competency.

17 (d) The physician assistant and the supervising physician shall establish in  
18 writing transport and back-up procedures for the immediate care of patients who are  
19 in need of emergency care beyond the physician assistant's scope of practice for such  
20 times when a supervising physician is not on the premises.

21 (e) A physician assistant and his or her supervising physician shall establish in  
22 writing guidelines for the adequate supervision of the physician assistant which shall  
23 include one or more of the following mechanisms:

24 (1) Examination of the patient by a supervising physician the same day as care  
25 is given by the physician assistant;

26 (2) Countersignature and dating of all medical records written by the physician  
27 assistant within thirty (30) days that the care was given by the physician assistant;

28 (3) The supervising physician may adopt protocols to govern the performance  
of a physician assistant for some or all tasks. The minimum content for a protocol  
governing diagnosis and management as referred to in this section shall include the  
presence or absence of symptoms, signs, and other data necessary to establish a  
diagnosis or assessment, any appropriate tests or studies to order, drugs to  
recommend to the patient, and education to be given the patient. For protocols  
governing procedures, the protocol shall state the information to be given the patient,  
the nature of the consent to be obtained from the patient, the preparation and  
technique of the procedure, and the follow-up care. Protocols shall be developed by  
the physician, adopted from, or referenced to, texts or other sources. Protocols shall  
be signed and dated by the supervising physician and the physician assistant. The  
supervising physician shall review, countersign, and date a minimum of 5% sample of  
medical records of patients treated by the physician assistant functioning under these  
protocols within thirty (30) days. The physician shall select for review those cases

1 which by diagnosis, problem, treatment or procedure represent, in his or her  
2 judgment, the most significant risk to the patient;

3 (4) Other mechanisms approved in advance by the board.

4 (f) The supervising physician has continuing responsibility to follow the  
5 progress of the patient and to make sure that the physician assistant does not function  
6 autonomously. The supervising physician shall be responsible for all medical  
7 services provided by a physician assistant under his or her supervision.

### 8 COST RECOVERY

9 16. Section 125.3 of the Code states:

10 (a) Except as otherwise provided by law, in any order issued in resolution of a  
11 disciplinary proceeding before any board within the department or before the  
12 Osteopathic Medical Board, upon request of the entity bringing the proceeding, the  
13 administrative law judge may direct a licensee found to have committed a violation or  
14 violations of the licensing act to pay a sum not to exceed the reasonable costs of the  
15 investigation and enforcement of the case.

16 (b) In the case of a disciplined licensee that is a corporation or a partnership, the  
17 order may be made against the licensed corporate entity or licensed partnership.

18 (c) A certified copy of the actual costs, or a good faith estimate of costs where  
19 actual costs are not available, signed by the entity bringing the proceeding or its  
20 designated representative shall be prima facie evidence of reasonable costs of  
21 investigation and prosecution of the case. The costs shall include the amount of  
22 investigative and enforcement costs up to the date of the hearing, including, but not  
23 limited to, charges imposed by the Attorney General.

24 (d) The administrative law judge shall make a proposed finding of the amount  
25 of reasonable costs of investigation and prosecution of the case when requested  
26 pursuant to subdivision (a). The finding of the administrative law judge with regard to  
27 costs shall not be reviewable by the board to increase the cost award. The board may  
28 reduce or eliminate the cost award, or remand to the administrative law judge if the  
proposed decision fails to make a finding on costs requested pursuant to subdivision  
(a).

(e) If an order for recovery of costs is made and timely payment is not made as  
directed in the board's decision, the board may enforce the order for repayment in any  
appropriate court. This right of enforcement shall be in addition to any other rights  
the board may have as to any licensee to pay costs.

(f) In any action for recovery of costs, proof of the board's decision shall be  
conclusive proof of the validity of the order of payment and the terms for payment.

(g) (1) Except as provided in paragraph (2), the board shall not renew or  
reinstate the license of any licensee who has failed to pay all of the costs ordered  
under this section.

(2) Notwithstanding paragraph (1), the board may, in its discretion,  
conditionally renew or reinstate for a maximum of one year the license of any  
licensee who demonstrates financial hardship and who enters into a formal agreement  
with the board to reimburse the board within that one-year period for the unpaid  
costs.

1 (h) All costs recovered under this section shall be considered a reimbursement  
2 for costs incurred and shall be deposited in the fund of the board recovering the costs  
3 to be available upon appropriation by the Legislature.

4 (i) Nothing in this section shall preclude a board from including the recovery of  
5 the costs of investigation and enforcement of a case in any stipulated settlement.

6 (j) This section does not apply to any board if a specific statutory provision in  
7 that board's licensing act provides for recovery of costs in an administrative  
8 disciplinary proceeding.

#### 9 **DEFINITIONS**

10 17. Hydrocodone with acetaminophen – Generic name for the drugs Vicodin, Norco, and  
11 Lortab. Hydrocodone with acetaminophen is classified as an opioid analgesic combination  
12 product used to treat moderate to moderately severe pain. Hydrocodone with acetaminophen is a  
13 Schedule II controlled substance pursuant to Code of Federal Regulations Title 21 section  
14 1308.12. Hydrocodone with acetaminophen is a dangerous drug pursuant to California Business  
15 and Professions Code section 4022 and is a Schedule II controlled substance pursuant to  
16 California Health and Safety Code section 11055, subdivision (b).

17 18. Tramadol – Generic name for the drug Ultram. Tramadol is a novel opioid pain  
18 medication used to treat moderate to moderately severe pain. Tramadol is a Schedule IV  
19 controlled substance pursuant to Code of Federal Regulations Title 21 section 1308.14(b). It is a  
20 dangerous drug pursuant to Business and Professions Code section 4022, and is a Schedule IV  
21 controlled substance pursuant to Health and Safety Code section 11057, subdivision (c).

#### 22 **FACTUAL ALLEGATIONS**

23 19. Respondent is a licensed physician assistant who previously worked at Redding  
24 Cancer Treatment Center ("RCTC") from 2017 to 2019 in Redding, California. In early 2019,  
25 RCTC terminated Respondent's employment after an investigation.

26 20. Between November 11, 2017, to February 19, 2019, Witness 1<sup>5</sup>, a licensed vocational  
27 nurse working with Respondent at RCTC, received at least 17 blank prescriptions from  
28 Respondent that Respondent had signed. After Respondent signed each of the 17 prescriptions,  
he allowed Witness 1 to fill out the rest of the information on the prescriptions. Respondent did

<sup>5</sup> All witnesses and patients are identified by an alpha numeric character in order to protect confidentiality. All witnesses and patients will be fully identified in discovery.



not verify if Witness 1 would be using the prescriptions for a proper purpose when he provided the prescriptions to her. Respondent did not document in any medical records any information related to the blank prescriptions that he provided to Witness 1.

21. On or between November 11, 2017, to February 19, 2019, Witness 1 used seventeen prescriptions signed by Respondent to obtain controlled substances. Witness 1 filled out the prescriptions in one of two ways. First, Witness 1 entered her information on eleven of the prescriptions and then had a pharmacy fill the prescriptions in her name. Second, Witness 1 entered her cousin's information on six of the prescriptions and then directed her cousin, Witness 2, to have the prescriptions filled at a pharmacy and for Witness 2 to bring her the controlled substances. Witness 1, through either the prescriptions she completed to herself or the prescriptions she completed to her cousin, obtained controlled substances both for her own personal use and for her to sell to other individuals. Witness 1 and Witness 2 were never patients at RCTC and Respondent kept no medical records that indicate Respondent provided medical care to Witness 1 and Witness 2. The following chart contains a list of the controlled substances that Witness 1 obtained because of Respondent's signed prescriptions:

Date Prescription Filled	Quantity	Controlled Substance	Recipient	Schedule
11-11-17	60 tablets	10/325 mg hydrocodone with acetaminophen	Witness 1	II
2-13-2018	60 tablets	10/325 mg hydrocodone with acetaminophen	Witness 1	II
3-15-2018	60 tablets	10/325 mg hydrocodone with acetaminophen	Witness 1	II
3-30-2018	60 tablets	10/325 mg hydrocodone with acetaminophen	Witness 1	II

1	7-16-2018	60 tablets	10/325 mg hydrocodone with	Witness 1	II
2			acetaminophen		
3	8-4-2018	60 tablets	10/325 mg hydrocodone with	Witness 1	II
4			acetaminophen		
5	11-9-2018	60 tablets	10/325 mg hydrocodone with	Witness 1	II
6			acetaminophen		
7	11-16-2018	60 tablets	10/325 mg hydrocodone with	Witness 2	II
8			acetaminophen		
9	11-30-2018	60 tablets	10/325 mg hydrocodone with	Witness 1	II
10			acetaminophen		
11	12-11-2018	60 tablets	50 mg tramadol	Witness 1	IV
12	12-19-2018	60 tablets	10/325 mg hydrocodone with	Witness 2	II
13			acetaminophen		
14	12-26-2018	90 tablets	50 mg tramadol	Witness 2	IV
15	12-28-2018	80 tablets	10/325 mg hydrocodone with	Witness 1	II
16			acetaminophen		
17	1-16-2019	90 tablets	50 mg tramadol	Witness 2	IV
18	1-28-2019	90 tablets	10/325 mg hydrocodone with	Witness 2	II
19			acetaminophen		
20	2-4-2019	90 tablets	10/325 mg hydrocodone with	Witness 1	II
21			acetaminophen		
22	2-19-2019	90 tablets	10/325 mg hydrocodone with	Witness 2	II
23			acetaminophen		

///

///

///

///

- 1
- 2
- 3
- 4
- 5
- 6
- 7
- 8
- 9
- 0
- 1
- 2
- 3
- 4
- 5
- 6
- 7
- 8
- 9
- 0
- 1
- 2
- 3
- 4
- 5
- 6
- 7
- 8

[illegible]

3  
4  
5  
6  
7

8  
9  
0  
1

## 2

3

4  
5  
6  
7  
8

9  
20  
21

## 22

23  
2425  
26

27

98

1           2.     Ordering Craig Francis Kulyn, P.A. to pay the Board the reasonable costs of the  
2 investigation and enforcement of this case, and if placed on probation, the costs of probation  
3 monitoring; and,

4           3.     Taking such other and further action as deemed necessary and proper.  
5  
6

7           DATED: September 7, 2022

*Rozana Khan*

ROZANA KHAN  
Executive Officer  
Physician Assistant Board  
Department of Consumer Affairs  
State of California  
*Complainant*

12  
13           SA2022801765  
14           36517533.docx  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28